

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	

**PETITION IN SUPPORT OF PETITION FOR
RECONSIDERATION**

On behalf of Mothers Against Drunk Driving (“MADD”), I am writing to express our support of DialAmerica Marketing, Inc.’s (“DMI”) Petition for Reconsideration.

MADD is a charitable organization tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code. MADD’s mission is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking. Since our founding more than twenty years ago, MADD has helped reduce the toll of alcohol related fatalities by more than 250,000 people and has supported countless victims. This important work has taken, and continues to take, considerable resources to carry out such admirable purpose, much of which has come from charitable sales promotions conducted through legitimate telemarketing services.

For-profit businesses that conduct charitable sales promotions such as DMI’s Sponsor Sales Program are regulated under the fundraising statutes and regulations of each state.¹ Legislatures and states’ attorneys’ general promulgate these statutes and regulations to protect the public and the charitable organizations in connection with the fundraising aspect for which the sales are made. The non-commercial nature of the speech involved in these solicitations is the precise reason that the regulations exist. The Federal Communication Commission’s determination that the nonprofit exemption does not apply to these types of calls should be reconsidered because of the non-commercial nature of the speech and the authority that the states’ attorneys’ general already have over this type of speech.

¹ See, e.g., Georgia Statutes, Title 43, Chapter 17; New Hampshire Statues, Chapter 7; and Fla. Stat. §§ 496.404, 496.414, and 496.415. Other jurisdictions that currently regulate charitable sales promotions include Alabama, Arkansas, California, Colorado, Connecticut, Hawai`i, Louisiana, Maine, Massachusetts, New Jersey, New York, North Carolina, Ohio, Oregon, Virginia, Washington State and Pinellas County, Florida.

There is no doubt that the national do-not-call list will have a severely negative effect on the amount of revenue MADD and other charitable organizations receive from businesses that conduct charitable sales promotions through telemarketing. This in turn will directly affect MADD's ability to communicate its lifesaving message and help victims. In Fiscal Year 2002, MADD received over 8 percent of its total revenue from DMI's charitable sales promotion conducted to benefit MADD. Through this already regulated fundraising activity, MADD received \$3,589,883 of licensing revenue *at no cost* to MADD. In addition, MADD received several thousand dollars in donations as a result of consumers being contacted by DMI. Although the people whom DMI contacted did not want to make a charitable sales promotion purchase, they were moved by the information they received regarding MADD's programs and wished to help with a straight donation made directly to MADD.

Without this much-needed revenue, MADD will have to severely cut back funding of our programs, which could have dire consequences for the American public.

DMI's charitable sales promotions have generated over \$200,000,000 for several nonprofit organizations since their inception. The nonprofit organization receives the benefit of the no-cost revenue as well as the crucial, and often lifesaving, message delivered to the public. If this program is eliminated because of the negative impact of the do-not-call legislation, MADD, as well as other nonprofits, will be forced to turn to more costly methods of raising the funds it needs. And every dollar that MADD must spend on fundraising is just one less dollar spent on MADD's programs.

Equally important is the information about drunk driving that organizations such as DMI are able to disseminate in conjunction with charitable sales promotions. Last week alone MADD received two calls from drunk driving victims who had received a call from DMI. The DMI representative had directed these individuals to MADD's victim assistance hotline. As a result, these two victims are receiving victim services from MADD. There are numerous examples of the public benefit received as a direct result of the DMI charitable sales promotion.

MADD asks you to rule favorably on DMI's Petition for Reconsideration and exempt the businesses that conduct lawful charitable sales promotions from the national do-not call list.

Respectfully submitted,

/s/ Kirstin L. Humann

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October 27, 2003

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition in Support of Petition for Reconsideration was served by first-class mail, postage prepaid, to the parties identified below on this 27th day of October 2003.

/s/ Kirstin L. Humann
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